

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5222 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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JITUBHAI @ JITSINH RAMSINH SHINORA

Versus

DISTRICT MAGISTRATE

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Appearance:

MS DR KACHHAVAH for Petitioner

MR. NIGAM SHUKLA, Addl. G.P. for the respondents.

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CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 30/10/96

#### ORAL JUDGEMENT

This Special Civil Application is directed against the order dated 25.4.1996 passed by the District Magistrate, Baroda, whereby the petitioner has been detained under the provisions of the Gujarat Prevention of Anti-Social Activities Act, 1985. The detention order was executed on 26.4.1996 and since then the petitioner is under detention lodged at Junagadh District Jail, Junagadh.

The present Special Civil Application was filed on 18.7.1996 and on 19.7.1996 rule returnable for 12.8.1996 was issued. So far neither any reply has been filed nor affidavit of the detaining authority has been filed.

The grounds of detention enclosed with the detention order show that the petitioner was known by different names and in the village Kanjetha, Tal. Shinor, District Baroda and in its adjoining area the petitioner is engaged in the case of physical assaults and other anti-social activities including misbehaviour with the girls. The petitioner has an image of strong person and if any person raises voice against him then the petitioner threatens such person. The petitioner was also engaged in the offence of looting and blood-shed and causing injuries to the innocent persons. The petitioner was engaged in the activities of goondagiri and was known to be a dada and was also using deadly weapons openly. The petitioner is maintaining a gang of goondas and he was the bosa. People are afraid of the petitioner and would not be able to file report against the petitioner. The petitioner has also been taking goods on credit from the traders and in case the dues are demanded he used to beat the traders and did not pay the money. The detaining authority has also mentioned that in Shinor Police Station three criminal cases were registered against the petitioner for the offences under the I.P.C. Whereas the petitioner was repeatedly involved in offences under Chapter XVI and XVII of the Cr.P.C.; he was a headstrong and revenging person. Three witnesses who had stated against the petitioner's criminal activities had requested that their identity be kept secret. The detaining authority has found that the petitioner was a headstrong person and was engaged in anti-social activities and it was necessary to detain the petitioner to prevent him from continuing with his criminal and anti-social activities.

The detention order has been challenged on number of grounds but the learned counsel for the petitioner has stressed at the time of arguments that the bail application and bail orders regarding C.R. No. 21 of 1990, C.R. No. 2 of 92, and C.R. No. 20 of 1996 had not been supplied to the petitioner. The learned A.G.P. has submitted that on the basis of the record available with him copies of the bail application had been supplied but the copies of the bail orders have not been supplied.

It has already been held that supply of the copies of the bail orders is necessary and they are vital

documents. In view of the factual position which remained uncontroverted rather admitted on the basis of the record by the learned A.G.P. it is clear that the copies of the bail orders have not been supplied and hence the petitioner's right of making effective representation under Article 22(5) of the Constitution of India had been violated. Therefore, the detention order cannot be sustained in the eye of law.

Accordingly, the Special Civil Application is allowed and the impugned detention order dated 25.4.1996 passed by the District Magistrate, Baroda, is hereby quashed and set aside. The petitioner's detention is declared to be illegal. The respondents are directed to release the petitioner and set him at liberty forthwith if not required in any other case. Rule is made absolute.

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